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Candace Havens
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MEMORANDUM

DATE: June 24, 2011

TO: Alderman Marcia T. Johnson, Chairman, and
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
Jennifer Molinsky, Chief Planner for Long-Range Planning
Seth Zeren, Chief Zoning Code Official

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RE: Working Session
#26-11, His Honor the Mayor submitting in accordance with Section 7-2 of The City Charter an amendment to the *2007 Newton Comprehensive Plan* to include a Mixed-Use Centers Element

CC: Mayor Setti D. Warren
Board of Alderman
Planning and Development Board
Marie Lawlor, Assistant City Solicitor

Petition #26-11 was previously introduced at a Working Session on May 23, 2011, and the Zoning and Planning Committee has scheduled two additional working sessions on the petition for June 27 and July 12. This memorandum provides supporting materials to the discussion on June 27th, focusing on the definitions, strategy, principles, and goals of the Mixed-Use Centers Element amendment to the *Comprehensive Plan*. The July 12th meeting and accompanying memorandum will focus on the implementation of the Element.

Executive Summary

The Mixed-Use Element is a proposed amendment to the *Comprehensive Plan* that was prepared by the Mayor's Mixed-Use Task Force. The *Comprehensive Plan* does not currently explicitly encourage or advocate for mixed-use development. This amendment was written to clarify the City's intentions for mixed-use centers and to guide future developments on its larger sites.

The Element states that the City can be enhanced and a modest amount of growth accommodated in new mixed-use centers. As described in the draft Element, good mixed-use development should reflect the positive qualities of a village center, combining commerce, residences, and public amenities integrated into its surroundings rather than buffered from them, and being places where people can live, work and shop. The Element sets out a strategy for achieving this vision, centering on making mixed-use development more attractive to developers than single-use development, making better use of under-utilized land, and ensuring that proposed developments are responsive to City goals. The Element proposes changes to decision-making processes surrounding mixed-use projects, as well as guidance on design, access and transportation, housing, and finance.

The Planning Department broadly supports this vision. The general principles and goals laid out within the Element are in agreement with best practices in planning. The draft Element does raise some questions worthy of discussion and, potentially, clarification prior to adoption. The following questions are discussed in greater detail in the analysis section of this report:

- To which sites should the Element apply?
- How should new mixed-use developments relate to the areas around them?
- Should housing be required in mixed-use center developments? Is it really fiscally neutral?
- What is the right balance between flexibility and predictability for new development?
- How can the general principles and goals expressed in the Element best inform decisions between different specific possibilities?

I. Background

The Board of Aldermen adopted the current *Comprehensive Plan* in 2007. Amendments to the *Plan* require an affirmative vote of the Board of Aldermen (see Appendix A for process details). The Mixed-Use Task Force was appointed by the Mayor in the spring of 2010 and Chaired by Phil Herr. The 20 members of this group met regularly over the spring and summer of 2010 and delivered a completed draft to the Mayor in the fall of 2010. Mixed-use development was identified as the preferred type of development for the City's largest sites, and the draft Element consists of a vision, a strategy, and considerations of design, transportation/access, housing, financial implications, as well as opportunities for mixed-use development. Common features of design of such centers include a mix of uses that bear a complementary relationship to one another, are easy to access on foot, and transition comfortably into their surroundings. Designs should be aesthetically pleasing, environmentally sensitive, and include usable open space that is integral to the site.

II. Analysis

The Planning Department agrees with the vision presented in the draft Element and in the general principles that mixed-use development should be an attractive option for developers, sensitive to and integrated with their surroundings, provide public amenities and a strong sense of place, and be responsive to City goals, especially regarding housing and job creation. (See Appendix B for summary of the draft Element's goals and principles.) The questions worthy of further discussion are listed below:

- **To which sites should the Element apply?**

The initial charge of the Mixed-Use Task Force was to consider mixed-use development on the City's largest sites (generally assumed to be over ten acres in area). At the time, three such sites included the Riverside MBTA Station, the Northland site on Needham Street, and Chestnut Hill Square on Route 9 (which has since been approved for mixed use). However, the Element itself does not clearly describe its applicability, though there are several specific references to each of the three sites. As the Element is written, the principles and goals described in the Element would be helpful in guiding good mixed-use development on sites large and small anywhere in the City, as is suggested in the final paragraphs of the Element. Clarification as to its applicability would enhance the usefulness of the document.

- **How should new developments relate to the areas around them?**

In the Access and Transportation section, the draft Element states that new developments should "cause no harm," meaning, among other things, that the ease of travel by persons of all abilities regardless of mode is not materially worsened as a result of the development and its related 'mitigations,' and the means of achieving that do not do damage to community or environmental values" (p. 6). This standard should not be confused with "create no changes" to transportation or access, as "different" does not necessarily imply "worse." Newton will continue to evolve and change as it adapts to market fluctuations and strives to maintain its vitality ~ both economic ally and in terms of sense of community. Whether a project may cause harm may depend on whether changes that could be considered detrimental can be mitigated in a way that resolves possible negative effects on the immediate area or in the City as a whole.

- **Should housing be required in all mixed-use center developments? Is it really fiscally neutral?**

There are many kinds of mixed-use developments. For example, a mixture of retail, office, dining, and entertainment can be considered mixed use. However, housing is considered an integral feature of mixed-use development in this Element and it argues strongly in favor of requiring housing in any mixed-use site to increase the vitality of the development, serve City and regional housing needs, and ease the transition between a mixed-use development and its surrounding neighborhoods. It also suggests that housing be sufficient in scale so that, with surrounding existing housing, a "real neighborhood" is created. Sometimes this residential component could be located in an adjacent pedestrian-accessible area, rather than centrally in a new development. In staff's view, the placement of housing is a site-specific consideration that relates to the geography, proximity and amount of existing housing in the immediate area, and various other site conditions.

In a discussion about the potential for new pupils to be added to Newton’s public schools through the development of new mixed-use centers, the Element also asserts that new housing located in mixed-use centers would be fiscally neutral (p.11), though in the absence of specific plans for a mixed-use development it is unclear if this is true in all cases. For example, though dwelling units in multifamily buildings (particularly one- and two-bedroom units) produce far fewer school children than single-family houses, some new pupils could still be added to schools, and, if empty nesters downsize into new units, their existing large homes will be opened up for new families with children. The implication in the Element is that, if housing in mixed-use centers is fiscally neutral, then “the amount of housing to include in such developments can be considered independent of concern over fiscal impacts” (p. 11). The Planning Department suggests that fiscal impacts of housing may, in fact, depend on the specific type and amount of housing, and consideration of these impacts is still warranted in consideration of residential elements of mixed-use projects.

- **What is the right balance between flexibility and predictability for new development?**

Developers value flexibility in uses and designs to ensure they can build successful projects and, over the long-term, allow uses or buildings to evolve with the real estate market, but they also favor predictability in the project approval process and timing of construction. Some aspects of the Zoning Ordinance offer predictability, such as setback requirements, while others allow more flexibility, like the range of uses allowed in business zones. Too little flexibility may discourage developers and prevent developments from evolving; too little predictability leaves neighbors and the City without a strong enough voice in shaping new development. Finding the proper balance between minimizing barriers to development and designing the best projects is generally a challenge and one the Element aims to address.

- **How can the general principles and goals expressed in the Element best inform decisions for designing mixed-use centers?**

The principles and goals described in the Element provide an excellent vision for healthy mixed-use development in Newton; however, they are often general and broad in their scope. It is less clear how the Element can guide specific trade-offs or decisions between different specific options for site development. For example, the Element discusses the need for clear guidance on what would “constitute a sufficient housing component” but does not actually say what that guidance should be, or the preferred types of units. Similarly, in discussing the opportunities for new employment centers, the Element does not suggest what types of jobs or industries should be preferred. The discussion of design states that new developments should have an “organic consistency with [their] environs,” but does not provide guidance on when or how this is to be judged—or how much density should be allowed where. This may necessarily be a function of the fact that the Riverside and Needham Street sites are fundamentally different, and only more general principles can be applied to both. However, despite the general nature of the guidance, the Element states that mixed-use development should be responsive to what the City seeks, rather than having the City “revise its plans to accommodate those of developers” (p. 1). If this statement is to be reflected throughout the Element, more specific guidance on what the City wants on its major mixed-use

development sites might be warranted. Relative to design, the Element suggests guidelines, while at the same time acknowledging the distinct qualities of each of our village centers do not lend themselves to a one-size-fits-all approach. Thus, development of design guidelines may need to be site-specific.

III. Conclusion

The Planning Department supports the general vision of new mixed-use centers proposed in the draft Element. As a part of *the Comprehensive Plan* a guidance document, it is necessarily overarching and general. In the next working session, the Planning Department will discuss some possible mechanisms that could implement and articulate the goals expressed in the Element. Numerous suggestions for action are mentioned throughout the Element, including development of design guidelines and metrics for determining traffic, school, and fiscal impacts and other implementation tools. In preparation for the next working session, the Board may want to consider the level of specificity it desires in the Element and in the Zoning Regulations.

ATTACHMENT A

Legal Context for Comprehensive Plan Amendment

The *Comprehensive Plan* is a document that is required by the Charter of the City of Newton and by Massachusetts's General Laws (MGL). Chapter 41, Section 81D of the MGL requires that each Planning and Development Board create a Comprehensive Plan for the "physical development of the municipality" and lays out the minimum required elements of a Comprehensive Plan, including land use, housing, economic development, natural and cultural resources, open space and recreation, services and facilities, transportation, and an implementation program.

The Charter of the City of Newton further requires the creation of a *Comprehensive Plan* to "govern the future physical development of the entire City." The Charter requires the Mayor to recommend modifications to the *Comprehensive Plan* to the Board of Aldermen. The Board of Aldermen then refers the proposal to the Planning and Development Board, which reviews the proposal and makes a recommendation. After receiving the recommendation, the Board of Aldermen must hold a public hearing and adopt the amendment by a resolution. The *Comprehensive Plan* shall "serve as a guide to all future action by the Board of Aldermen concerning land use and development regulations, urban renewal programs, and expenditures for capital improvements" (Charter of the City of Newton, Section 7-2). The *Comprehensive Plan* is the basis for all land use and development regulations, the Zoning Ordinance in particular, and is also meant to inform decisions around particular land use decisions. Following the adoption of a *Comprehensive Plan* element, the Zoning and Planning Committee and Planning and Development Department will want to consider what changes to the Zoning Ordinance and Departmental policy are necessary and appropriate for implementing the recommendations.

ATTACHMENT B

Summary of Principles and Goals Identified in the Element

A number of Principles and Goals can be inferred from the language of the Element. We have attempted to collect them all here to facilitate discussion. In highlighting these Principles and Goals we draw the following distinction between the two:

- **Principles** are what we want our Plan, or our Ordinances, or our approval process to be like.
- **Goals** are what we want to achieve through the operation of our regulations and procedures, including physical developments as well as intangible impacts, such as increased tax revenue or effects on neighborhood character.

Where possible, page numbers have been cited for each Principle or Goal.

Principles:

- 1) The City should proactively lay out a vision for future development, rather than responding to each new development proposal (p. 1)
- 2) Mixed-use should be encouraged as a preferred development type over single or separated-use development (p. 1)
- 3) The development process should be transparent to the community and have a uniform and predictable timeline and method for considering potential impacts (p. 1)
- 4) Neighbors must have an important seat at the table (p. 1)
- 5) Zoning regulations and process must allow for economically viable projects. (p. 1)
- 6) Guidance shouldn't be overly prescriptive (p. 2)
- 7) "Appropriateness" varies sharply among villages and neighborhoods (p. 5)
- 8) "Real" mixed-use should include housing, potentially including adjacent sites (p. 8)
- 9) Mixed-use zoning should allow significant development to achieve significant increases in tax revenue (p. 10)
- 10) New mixed-use residential units are fiscally revenue neutral for the City (p. 11)
- 11) Impact fees, if ever made possible, should apply to all development equally so as to not prejudice against mixed-use developments (p. 12)
- 12) Models of fiscal, traffic, school, and other impacts will lack credibility with community opponents unless neighbors were themselves part of the assessment process (pp. 12-13)

Goals:

Designing Mixed-use

- 1) Developments should be integrated into their surrounding context (p. 3)
- 2) Provide nearby residents with jobs, services, and other benefits, including public amenities (p. 4)

- 3) Buildings should have an “organic consistency with [their] environs without mimicry or preclusion of well designed differences in massing and scale.” New development should have a positive visual impact through good design (p. 4)
- 4) New development should respect the environment through green design, green roofs, and terraces (p. 4)
- 5) Vertical mixed use should be encouraged, not just horizontal (p. 4)
- 6) Good faith efforts should be made to recruit and train Newton residents for jobs created by new developments (p. 4)

Access and Transportation

- 1) Increase the share of travel by walking, bike, and public transportation (p. 5)
- 2) New development should pay for improvements in traffic infrastructure to mitigate or improve the level of service (p. 6)
- 3) “Do no harm”—meaning “the ease of travel by persons of all abilities regardless of mode is not materially worsened as a result of the development and its related mitigations, and the means of achieving that do not do damage to community or environmental values, thereby damaging the qualities of the city that we want” (p. 6)
- 4) “Mixed-use development should have excellent bicycle and pedestrian connections” (p. 7)
- 5) “New developments should be permeable through interconnections to adjacent developments, wherever possible by foot and by auto” (p. 7)
- 6) Bicycle storage areas and changing locations will encourage bicycle commuting (p. 7)
- 7) Accommodate parking in attractive parking structures, or surface parking where appropriate (p. 7)
- 8) Mitigate the visual impact of parking with retail and other uses (p. 7)

Housing and mixed-use

- 1) New development should increase the diversity of available housing types, including affordable housing for working families and units appropriate for downsizing empty-nesters and young professionals (p. 8)
- 2) “Housing to be developed as part of a mixed-use development must be sufficient in scale so that together with possible existing adjacent residential uses it can result in a real neighborhood being created” rather than an isolated fragment of housing (p. 9)
- 3) New housing should allow limited home-business activities or potentially include “live-work” units (p. 10)
- 4) Ensure that new developments should address the impacts of proposed housing on capacity in affected schools (p. 10)

Finance and Mixed-use

- 1) New developments should not harm existing mixed-use or commercial areas through competition for tenants or customers (p. 10)
- 2) Balance population growth with new employment creation (p. 11)
- 3) The City will increase its tax base, particularly its commercial tax base (p. 12)

- 4) The City should document its expectations for mitigation in advance of particular project proposals so that developers and community members have predictable expectations (p. 12)
- 5) New development will create employment opportunities for low income residents (p. 13)